

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

CHRISTOPHER THOMAS
WELLIVER,

Plaintiff,

vs.

UNITED STATES OF AMERICA, et
al.,

Defendants.

CV 21-01-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on Defendants' motion for summary judgment (Doc. 22) on August 19, 2022. (Doc. 34). The Magistrate recommended that the motion be granted, and judgment entered against Welliver. (Doc. 34 at 7-8). Welliver timely filed his objections on August 25, 2022 (Doc. 35), and Defendants responded on September 6, 2022. (Doc. 36).

Litigants are entitled to *de novo* review of those findings or recommendations to which they object. 28 U.S.C. § 636(b)(1). When neither party objects, this Court reviews a magistrate's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). A party makes a proper objection "by identifying the

parts of the magistrate's disposition that the party finds objectionable and presenting legal argument and supporting authority such that the district court is able to identify the issues and the reasons supporting a contrary result. *Lance v. Salmonson*, 2018 WL 4335526 at *1 (D. Mont. Sept. 11, 2018). A district court, when conducting review of a magistrate's recommendations, may consider evidence presented for the first time in a party's objections, but it is not required to. *Brown v. Roe*, 279 F.3d 742, 744 (9th Cir. 2002).

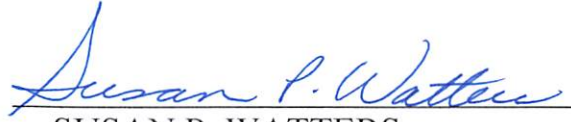
In his objections, Welliver asserts that his failure to plead a proper cause of action, amend his complaint, or request specific discovery is due to his unawareness of procedural requirements. (Doc. 35 at 3-4). Unfortunately, these are not proper objections and are not a basis for overturning the Magistrate's recommendations. The Court appreciates the difficulties of understanding the legal process that *pro se* litigants like Welliver encounter. However, those difficulties do not excuse a failure to assert a valid cause of action or conduct discovery. After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 34) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendants' motion for summary judgment (Doc. 22) is GRANTED, Plaintiff's *Miranda* claim is DISMISSED

WITH PREJUDICE, and Plaintiff's motion to amend (Doc. 31) is DENIED. The Clerk shall enter judgment in favor of Defendants and against Plaintiff and the Court certifies that any appeal will not be taken in good faith.

DATED this 2nd day of November, 2022.



SUSAN P. WATTERS
United States District Judge